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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/865,113	05/24/2001	Jeffrey T. Makoff	POET-400	3042
28584	7590	05/19/2006	EXAMINER	
STALLMAN & POLLOCK LLP 353 SACRAMENTO STREET SUITE 2200 SAN FRANCISCO, CA 94111			SHERR, CRISTINA O	
			ART UNIT	PAPER NUMBER
			3621	

DATE MAILED: 05/19/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No. 09/865,113	Applicant(s) MAKOFF ET AL.	
	Examiner Cristina Owen Sherr	Art Unit 3621	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 February 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-57 is/are pending in the application.
- 4a) Of the above claim(s) 5-28,31-37 and 40-57 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-4,29,30,38 and 39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This communication is in response to applicant's amendment filed February 27, 2006.

Election/Restrictions

2. Pursuant to a requirement election and restriction, claims 1-4, 29-30, and 38-39 have been elected for examination, without traverse.

Response to Arguments

3. Applicant's arguments with respect to claims 1-4, 29-30 and 38-39 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-3, 29-30 and 38-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Dean et al (US 6,023,762).

6. Regarding claim 1 –

Dean a method of providing a customer remote access to a group of providers through an agent device with the customer, agent and servicer being linked by a computer network, said customers requiring modification of digital images, said method comprising the steps of transferring from the customer to the provider the digital image along with the customer's instructions for modifying the digital image; selecting an editor

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to perform the modifications; transferring the digital image and the associated instructions to the selected editor; and providing the customer with access to the digital image back after the modifications have been made by the editor (e.g. col 3 ln 28 – col 4 ln 9).

7. Although Dean does not specifically address editors, he does address services generally, and a practitioner of ordinary skill in the art could adapt Dean to obtain the instant application.

8. Regarding claims 2-3 –

Dean discloses the method of claim 1 wherein the instructions are in the form of typed text, or of graphics overlaid on the digital image (e.g. fig. 1, fig. 5).

9. Regarding claim 4 –

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Dean et al (US 6,023,762) in view of Hanson et al (US 5,974,398).

10. Dean does not disclose selection via a bidding process. Hanson, however, does, at, e.g., abstract, fig. 2).

11. Further, as above, although Dean does not specifically address editors, he does address services generally, and a practitioner of ordinary skill in the art could adapt Dean to obtain the instant application.

12. It would be obvious to one of ordinary skill in the art to combine the teachings of Dean and Hanson in order to obtain the instant invention thus offering greater choice and economy to the buyer or user.

13. Claims 29-30 and 38-39 are rejected under the same criteria as claims 1-2.

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14. Examiner's note: Examiner has cited particular columns and line numbers in the references as applied to the claims above for the convenience of the applicant.

Although the specified citations are representative of the teachings in the art and are applied to the specific limitations within the individual claim, other passages and figures may be applied as well. It is respectfully requested from the applicant, in preparing the responses, to fully consider the references in entirety as potentially teaching all or part of the claimed invention as well as the context of the passage as taught by the prior art or disclosed by the examiner.

Conclusion

15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Cristina Owen Sherr whose telephone number is 571-272-6711. The examiner can normally be reached on 8:30-5:00 Monday through Friday.

16. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James Trammell can be reached on 571-272-6712. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

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17. Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

COS
05/09/06

Chala June S
PRIMARY EXAMINER